

Remarks

Applicants respectfully request reconsideration of the pending claims in view of the amendments above and the following remarks.

Claims 1-9 are pending. Claims 1 and 6 have been amended. No new matter has been inserted. Support for the amendment to claim 1 can be found in the specification at least at pages 8 and 9, as further described below. Support for the amendment to claim 6 can be found in the specification at least in the first paragraph on page 2.

35 U.S.C. § 112

Claims 1-9 were rejected under 35 U.S.C. § 112, first paragraph, as containing subject matter not sufficiently described in the specification. Applicants respectfully traverse this rejection.

Specifically, the Examiner has alleged that the term “at least 45.5 mol %” as found in claim 1 is not supported in the specification. In addition, the Examiner alleged that the specification merely discloses ‘45.5%’ absent any units and that it is unclear whether it refers to weight percent or mol percent.

In response, while not conceding the correctness of Examiner’s position, Applicants have amended claim 1 to eliminate the term “at least”. Further, Applicants assert that one of skill in the art would understand that the term “45.5%” refers to mol %. Specifically, Applicants point out that the application discloses in example 1 on page 9 that omega 6 PUFA levels were increased “from 1.8% in the unmodified coconut oil to 45.5% in the structured lipids.” Further, the table contained within example 1 on page 9, shows that the omega 6 PUFA levels increase from “2” in the unmodified coconut oil to “46” in the structured lipids. The title of the table clearly indicates that the numbers contained therein refer to mol %. Accordingly, because both “45.5%” and “46” are referring to results of example 1 and because the title of the table clearly indicates that the numbers refer to mol %, Applicants assert that one of skill the art would clearly

recognize that both 45.5% and 46 refer to mol %. The Examiner has presented no logic to the contrary. Applicants respectfully request that this rejection be withdrawn.

To the extent that the Examiner applies this rejection to claim 1 as amended, Applicants assert the phrase “about 45.5 mol % to about 46 mol % of omega 6 polyunsaturated fatty acids” is clearly supported throughout the specification. Specifically, in addition to other support found throughout the specification, Applicants assert that the disclosure of 45.5 mol % and 46 mol % in example 1 provides support for the phrase “about 45.5 mol % to about 46 mol % of omega 6 polyunsaturated fatty acids” in claim 1.

Claim 6 was rejected under 35 U.S.C. 112, first paragraph, for enablement. The Examiner has objected to the term “modulate.” Applicants respectfully traverse this rejection.

The Examiner conceded that the specification is enabling for “increasing eicosanoid production.” Applicants have now amended claim 6 to recite “increase”. Applicants respectfully request that this rejection be withdrawn.

35 U.S.C. § 103(a)

Claims 1-9 were rejected under 35 U.S.C. 103(a) as being unpatentable over the Kaimal et al. Applicants respectfully request that this rejection be withdrawn.

Applicants assert that Kaimal fails to render the invention of claim 1 obvious at least because Kaimal teaches away from the present invention. Specifically, Applicants assert that Kaimal teaches away from the present invention because it suggests that high levels of linoleic acid may be undesirable. At p. 8, first column, Kaimal states “since the recommended maximum daily intake of linoleic acid is only 10% of the total calorie intake, a product with just enough linoleic acid content to satisfy the essential fatty acid requirement with a coconut oil base would yield a product of high stability and good nutritive value” (emphasis added). Thus Kaimal suggests that an “interesterified coconut oil comprising about 45.5 mol % to about 46 mol % of omega 6 polyunsaturated fatty acids”, as required by claim 1, would be undesirable.

Accordingly, Kaimal provides no motivation for one of skill in the art to produce an “interesterified coconut oil comprising about 45.5 mol % to about 46 mol % of omega 6 polyunsaturated fatty acids”, as required by claim 1.

Further, as previously conceded by the Examiner, Kaimal discloses an amount of linoleic acid (an omega 6 polyunsaturated fatty acid) of only 8.2 wt. %. Applicants have previously confirmed that 8.2 wt. % of linoleic acid corresponds to only approximately 6.0 mol %. Accordingly, Kaimal does not suggest “interesterified coconut oil comprising about 45.5 mol % to about 46 mol % of omega 6 polyunsaturated fatty acids”, as required by claim 1. For at least these reasons, Kaimal does not suggest the invention of claim 1. As claims 2-9 are dependent on claim 1, they are also not rendered obvious. Applicants respectfully request that this rejection be withdrawn.

Summary

In view of the above amendments and remarks, Applicant respectfully requests a Notice of Allowance. If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the below-listed telephone number.

Respectfully submitted,

MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, Minnesota 55402-0903
(612) 332-5300

Dated: February 4, 2005

By: 

Douglas P. Mueller
Reg. No. 30,300

23552

PATENT TRADEMARK OFFICE

DPM:MED:kf